

____ JOINT RESOLUTION NO. ____

INTRODUCED BY _____
(Primary Sponsor)

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY ON THE STATE SCHEDULES OF CONTROLLED SUBSTANCES, INCLUDING HOW THOSE SCHEDULES SHOULD BE UPDATED, ESPECIALLY WITH RESPECT TO MARIJUANA, HASHISH, AND DERIVATIVE SUBSTANCES, HOW FEDERAL LAWS APPLY TO THE STATE SCHEDULES, AND HOW MONTANA'S MEDICAL MARIJUANA LAWS SHOULD BE REFLECTED IN THE STATE SCHEDULES.

WHEREAS, drugs and other substances that are subject to abuse have been designated as "controlled substances" by the Legislature and are regulated according to five schedules codified in Title 50, chapter 32, MCA, with each schedule containing different restrictions on the prescription and use of the substance; and

WHEREAS, controlled substances are also regulated under federal law and, under the Supremacy Clause contained in Article VI of the U.S. Constitution, there may be federal laws and regulations that supersede state law but under the 10th Amendment state rights must also be considered; and

WHEREAS, there is concern among state crime lab personnel, prosecutors, defense attorneys, and local law enforcement officials that the statutory schedules are outdated and that the Board of Pharmacy has not exercised its authority under section 50-32-103, MCA, to update the schedules based on certain current criteria listed in section 50-32-201, MCA; and

WHEREAS, the definitions of hashish and marijuana in section 50-32-101, MCA, are outdated and do not include some derivative forms of processed marijuana or hashish, which makes it difficult for prosecutors, defense attorneys, and local law enforcement officials to know how to apply current law appropriately in cases involving the use of marijuana, hashish, and derivatives associated with these controlled substances; and

WHEREAS, laws concerning medical marijuana should be reflected in the scheduling of marijuana as a controlled substance; and

WHEREAS, a legislative study will assist the Legislature in determining whether and how to amend the statutory schedules of controlled substances, clarify the Board of Pharmacy's authority to update these schedules, coordinate the state schedules with federal law, and update the definitions of marijuana and hashish and account for derivatives of these substances.

1 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
2 STATE OF MONTANA:

3 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
4 5-5-217, MCA, or direct sufficient staff resources to:

5 (1) evaluate existing laws governing the ways in which controlled substances are listed in the state
6 schedules of controlled substances, examine existing laws concerning the Board of Pharmacy's authority to
7 update those schedules, and determine if any of these statutes need to be revised or clarified;

8 (2) evaluate existing laws governing the way in which controlled substances are listed in the federal
9 schedules of controlled substances, the necessity for the state schedules to match the federal schedules, whether
10 the federal and state laws may allow for differences between those schedules, whether any differences allowed
11 by federal law should be enacted or adopted by the state, and whether the current method contained in law for
12 the state to allow for or adopt those differences is constitutional or appropriate;

13 (3) evaluate the current definitions and scheduling of marijuana and hashish, investigate how any
14 derivatives of these controlled substances are processed and used, and determine whether updates or new
15 definitions for any derivative substances should be included in the state schedules in order to appropriately
16 control the use of marijuana, hashish, or any derivative of these substances; and

17 (4) evaluate existing Montana law on the use of medical marijuana, examine how best to coordinate
18 these laws with the state schedules on controlled substances, review how other states with medical marijuana
19 laws have coordinated their medical marijuana laws with their controlled substance schedules, and determine
20 whether any statutory changes are needed to coordinate Montana's medical marijuana laws with Montana's
21 schedules on controlled substances.

22 BE IT FURTHER RESOLVED, that the study involve the Board of Pharmacy, the state crime lab,
23 prosecutors, defense attorneys, state and local law enforcement officials, and other interested parties and
24 stakeholders, including physicians and medical marijuana patients and their caregivers.

25 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
26 presented to and reviewed by an appropriate committee designated by the Legislative Council.

27 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
28 requirements, be concluded prior to September 15, 2010.

29 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, and
30 recommendations, and any legislation requested by the appropriate committee, be reported to the 62nd

1 Legislature.

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